

EXHIBIT 5

FILED UNDER SEAL

In the Matter Of:

In Re - Pork Antitrust Litigation

CHRIS BECKLER

June 07, 2022



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Court File No. 0:18-cv-01776-JRT-HB

IN RE:

PORK ANTITRUST LITIGATION

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30(b)(6) DEPOSITION OF

CHRIS BECKLER

ON BEHALF OF EDLEY'S RESTAURANT GROUP, LLC

JUNE 7, 2022

ORAL VIDEOTAPED DEPOSITION OF CHRIS BECKLER, via
Zoom, produced as a witness at the instance of the
Defendants Tyson Foods, Inc., Tyson Prepared Foods, Inc.
and Tyson Fresh Meat, Inc., and duly sworn, was taken in
the above-styled and numbered cause on the 7th day of
June, 2022, from 9:02 a.m. to 12:46 p.m., before Melinda
Barre, Certified Shorthand Reporter in and for the State
of Texas, reported by computerized stenotype machine,
all parties appearing remotely via web videoconference,
pursuant to the rules of procedure and the provisions
stated on the record or attached hereto.

1 A. That's probably about right, yes.

2 Q. And has anyone else at Edley's been involved in
3 the procurement of pork products during the relevant
4 time period?

5 A. There's always individuals that give opinions,
6 thoughts on taste and, you know, flavors, our director
7 of culinary, our chef previously. We have a group of
8 people that -- you know, where we do menu tastings with;
9 but the final decision would be the person that sits in
10 my role.

11 Q. And did Edley's communicate directly with their
12 pork suppliers during the relevant time period?

13 A. Not that I'm aware of.

14 Q. The communications were always through
15 Mr. O'Quinn. Is that correct?

16 A. Mr. O'Quinn or the -- when we spoke directly to
17 either U.S. Foods or Reinhart or purveyors.

18 Q. And so Edley's never met directly with its pork
19 suppliers. Is that correct?

20 A. Not that I'm aware of.

21 Q. And in general what factors influence Edley's
22 decision-making about the suppliers from which it will
23 buy pork?

24 A. We've always kind of taken the approach and
25 Will in particular has always taken the approach of

1 quality first. So flavor and, you know, the product is
2 more important than price. We're willing to pay more
3 for a better product if necessary, but it really comes
4 down to the quality.

5 Q. Does the variety of pork products available
6 from a supplier impact Edley's decision-making?

7 A. It did during the pandemic. Previously there's
8 never, to my knowledge, been a shortage. That's never
9 been an issue.

10 You know, one of the things that Wayne and
11 U.S. Foods or Reinhart in that case would have done,
12 they're not going to bring somebody to the table that
13 could not keep up with supply. So that likely was not a
14 factor.

15 Q. And I believe you said quality was more
16 important to Edley's than price. Is that correct?

17 A. Yes.

18 Q. But price did have an impact on Edley's
19 decision-making for pork suppliers?

20 A. Yes.

21 Q. What about the availability of promotions like
22 discounts or rebates?

23 A. Those are nice to have; but they very rarely,
24 if ever factor into the decision-making.

25 Q. What about the ability to consistently deliver

1 product on time? Did that ever impact Edley's
2 decision-making?

3 A. Not from a pork purveyor but from Sysco and
4 U.S. Foods, yes. You know, we negotiate a contract
5 every few years with them; and their delivery on time
6 and fulfillment rate factors into our next discussions
7 around contract. But once we have an agreement with
8 somebody, it doesn't factor in.

9 Q. And you stated Edley's typically has a contract
10 for about two or three years with U.S. Foods, for
11 example. Is that correct?

12 A. So I don't know the length of time. I don't
13 recall the length of time for the U.S. Foods. I know
14 Reinhart was three years, and I know the agreement we
15 signed after Reinhart with Sysco was four years. So
16 three- to four-year time frame is about the norm.

17 Q. And does Edley's procure all of its pork
18 products from a single supplier?

19 A. Yes.

20 Q. I believe you stated that Edley's had a
21 contract with Reinhart for about three years. What time
22 period did that cover?

23 A. We signed the Sysco agreement in late -- in mid
24 '19. So Reinhart would have been mid '16-ish to mid
25 '19.

1 Q. And prior to Reinhart was U.S. Foods Edley's
2 supplier of pork products?

3 A. Yes.

4 Q. And about what time period did that cover?

5 A. I don't know the details of that one.

6 Q. Do you know who at Edley's would have knowledge
7 of that?

8 A. Will Newman.

9 Q. And who was Edley's supplier of pork products
10 prior to U.S. Foods?

11 A. I don't know the answer to that.

12 Q. And, similarly, would Will Newman have
13 knowledge of that?

14 A. Yes.

15 Q. And in general how did the negotiation process
16 go with Edley's suppliers?

17 MR. BARRETT: Objection to form.

18 A. So when you say "suppliers," are you asking
19 Sysco and Reinhart?

20 Q. (By Mr. Holleran) Yes, correct.

21 A. Okay. So Wayne would have gone out to bid.
22 And, you know, the instructions that we gave when we
23 went out to bid for Sysco, which was Will's
24 instructions, was, you know, We don't want to negotiate.
25 Give us the best offer you possibly can. We'll pick and

1 purveyors.

2 Q. Does the fee paid to Mr. O'Quinn vary based on
3 the prices that Edley's pays these suppliers?

4 A. No. It's a flat fee.

5 Q. Does Edley's pay Mr. O'Quinn any bonuses based
6 on his performance for Edley's?

7 A. No.

8 Q. Looking at this e-mail, could you read the
9 first two sentences of your e-mail?

10 A. Sure. "Wayne, can you and Brian, now that we
11 are transitioning into Sysco, take a look at commodity
12 pricing, especially for beef and pork, and see if we can
13 meet to discuss potential contractual buying versus
14 noncontractual."

15 Q. If you could read the next sentence as well,
16 please.

17 A. "We really want to see if there is upside
18 and/or opportunity to offset volatility period to period
19 as prices and market basket fluctuate."

20 Q. And what are you stating in this e-mail?

21 A. Is there a way for us to look at markets and
22 try to find a better way of doing business.

23 Q. And is the better way of doing business
24 purchasing noncontractual versus contractual?

25 A. Can you rephrase that, please.

1 Q. Sure. And is what you were looking into in
2 order to improve your business the differences between
3 purchasing pork products via contract versus
4 noncontracts?

5 A. Yes. So the intent was -- and it's really less
6 about saving money and it's more about projecting
7 financials.

8 You know, if you can lock in a price for a
9 year of what you're going to pay for pork, it's not
10 necessarily a savings but you know every period about
11 what you're going to spend and you can project your cash
12 on hand more effectively.

13 Q. So during the relevant period did the price
14 that Edley's paid for pork products vary?

15 A. I'm going to say yes. It almost always varies.

16 Q. So under the contracts Edley's had with U.S.
17 Foods, for example, what was the pricing mechanism in
18 place?

19 MR. BARRETT: Objection to the form.

20 THE WITNESS: Sorry.

21 MR. BARRETT: Go ahead.

22 A. So pricing for U.S. Foods, Reinhart and Sysco
23 are all costs plus, you know, a fee for what -- per
24 case.

25 Q. (By Mr. Holleran) And was that fee set within

1 a contract?

2 A. Yes.

3 Q. And did Edley's end up switching its purchasing
4 methods after you sent this e-mail?

5 A. No.

6 MS. JONES: I'm sorry to interject. This
7 is Sarah Jones for Sysco. I didn't receive the log-in
8 for this until just a short while -- maybe a couple
9 minutes before the deposition began. So I didn't make
10 an appearance. But I just wanted to object to form.
11 You can continue.

12 Q. (By Mr. Holleran) Do you need the question
13 read back, Mr. Beckler?

14 A. Please, yes.

15 MR. HOLLERAN: If the court reporter could
16 read it back, please.

17 (The record was read as requested.)

18 MR. BARRETT: Objection, form.

19 A. I don't recall specifically. I know we are
20 always looking for better ways to do things.

21 Q. (By Mr. Holleran) And did Edley's always
22 purchase using that cost-plus method for pork products
23 during the relevant time period?

24 A. Yes.

25 Q. In instances where Edley's purchased a pork

1 product on spot, would that be a set price for that
2 product?

3 A. Define "on spot."

4 Q. Sure. Earlier I believe you said that in rare
5 instances Edley's would go to a restaurant supply store
6 to purchase products. Is that correct?

7 A. Yes.

8 Q. And in those instances did Edley's pay a set
9 price for those products?

10 A. Yes. Whatever the price at the time in the
11 store was, that's what we paid.

12 Q. And you can set this exhibit aside.

13 And what products do you consider to be
14 alternatives to pork?

15 MR. BARRETT: Objection, form.

16 A. Meaning what else would guests order from a
17 protein standpoint?

18 Q. (By Mr. Holleran) Yes.

19 A. So in our case beef brisket, chicken, fried
20 chicken, catfish. I'm sure I'm not recalling something,
21 but that's the majority of it. Turkey. Sorry. Turkey.

22 Q. Did Edley's ever decide to prioritize different
23 menu items if the price for pork went up, for example?

24 A. Yes.

25 Q. And in what instances would Edley's do that?

1 try to trade guests out of pork.

2 Q. And would information or graphs on pork supply
3 impact those decisions?

4 A. Well, supply would translate into pricing. So
5 yes. A given instance, I know a year and a half ago or
6 during the pandemic, you know, at the same time as
7 pandemic issues and facility issues, there was a swine
8 outbreak in China, a swine flu outbreak in China.

9 So China is the biggest user of pork in
10 the world. So it affected what was on hand in the
11 United States because some was going to China. So that
12 would be a conversation Wayne and I would have would be,
13 Do we need to look at things differently?

14 Q. Are you aware of any diseases or outbreaks
15 impacting the pork industry during the relevant time
16 period?

17 A. No.

18 Q. Have you ever heard of the term "PEDV"?

19 A. No.

20 Q. And if you could turn now to page 40 of the
21 document.

22 A. (Witness complies.)

23 Q. You should see a title and graph titled "PORK:
24 Retail Pork Cuts."

25 A. Yep.

1 Q. Is this the type of graph that you were
2 discussing earlier?

3 A. Yes. And really the one below it with the
4 pricing projections would be the one that we'd spend
5 more time on but yes.

6 Q. How did Edley's benefit from receiving these
7 type of newsletters?

8 A. It's hard to speculate on that. Again, it's
9 another data point in decision-making.

10 Q. And if the newsletter forecasted that pork
11 prices were supposed to increase, would Edley's then
12 decide to purchase more pork at that time?

13 A. Possibly. And I'll give an example.

14 Today we are purchasing pork six to eight
15 weeks ahead of our usage, and we're able to buy in bulk
16 and get a discount because we're buying ahead of
17 schedule.

18 So I was not in place, you know, during
19 the time of this time period; but things like that could
20 have happened. Someone in a leadership role or Wayne's
21 guidance would have been to try to offset pricing
22 increases when and if you can with other proteins.

23 Q. And would Mr. Newman have knowledge on if
24 Edley's bought product in bulk, for example, after
25 seeing a similar industry newsletter during the relevant

1 time period?

2 A. I don't know the answer to that.

3 Q. You can set that one aside.

4 Take out tab 7, please.

5 MR. HOLLERAN: I'd like to mark this as
6 Edley's Exhibit 7.

7 (Exhibit 7 marked)

8 Q. (By Mr. Holleran) Let me know when you have
9 that out.

10 A. I have it out.

11 Q. Do you recognize this document?

12 A. Yes.

13 Q. And what is it?

14 A. It's a similar commodity report that I referred
15 to earlier. This one's proposed by Sysco.

16 Q. And did Edley's maintain this document in the
17 ordinary course of its business?

18 A. It's likely in my e-mail, yes.

19 Q. Did Edley's receive this report from
20 Mr. O'Quinn?

21 A. I don't know if we received it from Mr. O'Quinn
22 or Brian Stover, our contact at Sysco.

23 Q. Did Edley's regularly receive commodity reports
24 from Sysco?

25 A. Regularly, no.